

Appl. No. 10/821,052
Amdt. Date: February 6, 2008
Reply to Office action: August 6, 2007

MAR 26 2008**REMARKS/ARGUMENTS**

Please reconsider the application in view of the above amendments and the following remarks. Claims 1, 4-5, 10-11 and 14-15 remain in this application. Claim 19 has been added.

Claim Objections

Claims 1 and 11 are objected to because of informalities. Applicants have amended the claims to address the cited informalities.

Claim Rejection under 35 U.S.C. § 112

Claims 1, 4, 5, 10, 11, 14 and 15 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Applicants have amended the claims to address the informalities with regard to insufficient antecedent basis for recited claim limitations. Applicants have amended the specification to delete paper as a computer readable media.

Claim Rejection under 35 U.S.C. § 101

Claims 10, 11, 14 and 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With regard to claim 11, the examiner asserts that the term "computer program product stored in a computer readable medium" is considered to include the possibility of non-statutory matter. To overcome this non-statutory possibility, Applicants have amended claim 11 to recite a "computer readable medium encoded with a computer program" as suggested by the examiner.

With regard to claim 10, the examiner asserts that the term "a software routine within the telephone tower" is considered to include the possibility of non-statutory matter. To overcome this non-statutory possibility, Applicants have amended claim 10 to recite a "software routine encoded in a computer readable medium within the telephone tower."

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Claim Rejection under 35 U.S.C. § 103

Claims 1, 11 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over GLISIC et al. (US 5,754,541) in view of SAUTER et al. (US 2004/0209623 A1). This rejection is respectfully traversed.

The examiner states that Glisic does not disclose establishing multiple threshold capacity levels, determining a threshold level that is the closest level to the determined maximum capacity that has been exceeded by the determined calling activity and broadcasting the connection availability message corresponding to that closest threshold level that is exceeded by the detected calling activity. The examiner further asserts that Sauter does describe these limitations.

Sauter describes a lower threshold and an upper threshold value. However, these thresholds establish a range of connectivity congestion. As stated in Sauter, nothing happens when the connectivity activity passes (exceeds) the lower threshold value. Once the connectivity passes the higher threshold value, congestion begins. Based on the figures in Sauter, the congestion state remains until the connectivity falls below the lower threshold value. However, unlike the present invention, which triggers a connectivity message when any threshold is exceeded, in Sauter nothing happens when the activity initially exceeds the lower threshold value [0025]. As a result, identifying a lower threshold value alone has no effect on the ability to influence connectivity to the system. When compared to the present invention, in Sauter, the threshold values together only establish a congestion range. These threshold levels do not individually affect the connectivity. These thresholds only work together. In the present invention, there is response at each separate threshold level. Further, because in Sauter activity only triggered when the higher threshold value is exceeded, there is no motivation in Sauter to identify the threshold calling activity level that is closest to the detected calling activity that has been exceeded by the detected calling activity as is done in the present invention. When activity is triggered in Sauter, one knows it is because the second threshold level has been exceeded.

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To establish a prima facie case of obviousness, there must be some teaching or suggestion to combine the references. Therefore, Applicants assert that there is no establishment of prima facie obviousness as a result of a combination of Glisic with Sauter. Neither Glisic nor Sauter describe an activity of identifying the threshold calling activity level that is closest to the detected calling activity that has been exceeded by the detected calling activity. In both Glisic and Sauter, the exceeded level is either expressed (Glisic) or implied (Sauter). Glisic defines one threshold level. Sauter defines a range established by two threshold values. There is nothing in Glisic that teaches or suggests combining Glisic with Sauter. Further, Applicants assert that a combination of the teachings of Glisic with Sauter will not produce the method and system of Applicants' present invention. The combination of Glisic and Sauter will produce the multiple thresholds and the varied broadcast responses to each threshold level as described in Applicants' present invention.

Claim Rejection under 35 U.S.C. § 103

Claims 4, 5, 10 and 14 stand rejected under 35 U.S.C. § 103 as being unpatentable over GLISIC et al. (US 5,754,541) in view of HASSLER et al. (US 5,751,795) This rejection is respectfully traversed.

With regard to claims 4 and 14, Hassler describes a telephone switching system (100), such as an ACD switching system in a call center, is used to broadcast information for users, such as displayable messages, to telecommunications terminals (110-112, 212), such as display telephones or data terminals, of a plurality of the users, such as call center agents, by means of non-call-associated display messages that are transmitted over the terminals' telephone lines (120-122), at the request of one of the users, such as the supervisor of the call center. In Applicants' method, the broadcast is initiated by the tower and based on the connected number of calls.

With regard to claim 10, as previously stated, Sauter describes only lower threshold and an upper threshold values. Nothing happens when the connectivity activity passes (exceeds) the lower threshold value. When compared to the present invention, in Sauter, the threshold values together only establish a congestion range. These threshold

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levels do not individually affect the connectivity. These thresholds only work together. In the present invention, there is response at each separate threshold level and based on that threshold level. As previously stated, because in Sauter activity only triggered when the higher threshold value is exceeded, there is no motivation in Sauter to identify the threshold calling activity level that is closest to the detected calling activity that has been exceeded by the detected calling activity as is done in the present invention. When activity is triggered in Sauter, one knows it is because the second threshold level has been exceeded.

To establish a prima facie case of obviousness, there must some teaching or suggestion to combine the references. Therefore, Applicants assert that there is no establishment of prima facie obviousness as a result of a combination of Glisic with Sauter and Hassler. Glisic defines one threshold level. Sauter defines a range established by two threshold values. There is nothing in Glisic that teaches or suggest combining Glisic with Sauter to produce Applicants' present invention. Further, Applicants assert that a combination of the teachings of Glisic with Sauter and Hassler will not produce the method and system of Applicants' present invention. The combination of Glisic and Sauter will not produce the multiple thresholds and the varied broadcast responses to each threshold level as described in Applicants' present invention. The addition combination with Hassler will not overcome the deficiencies of the combination of Glisic and Sauter. Hassler does not provide the multiple threshold detection described in the present invention.

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In view of the above explanation, Applicants respectfully submit that none of the art of record (alone or in combination) teaches, discloses or even suggests the invention as recited in each of Applicant's claims. Applicant further submits that all of the pending claims are in condition for allowance. Withdrawal of the rejections and passage to issuance is respectfully requested. Applicant believes this reply to be fully responsive to all outstanding issues and place this application in condition for allowance. If this belief is incorrect, or other issues arise, do not hesitate to contact the undersigned at the below listed telephone number.

Respectfully Submitted,


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